

PATENT APPLICATION
Attorney Docket No. IMS 06-05

CERTIFICATE OF ELECTRONIC FILING SYSTEM TRANSMISSION AS
REQUIRED BY 37 C.F.R 1.8(a)(1)(ii)

I hereby certify that this correspondence is being submitted using the U.S. Patent
Office electronic filing system, EFS-Web, pursuant to 37 C.F.R. 1.6(a)(4) on
May 28, 2009

Typed or printed name of person signing this certificate: Jonathan A. Small

Electronic Signature: /Jonathan A. Small/

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Jeffrey S. Marks)	Confirm. No. : 4914
)	
Appl. No. : 09/698,640)	TC/A.U. : 3692
)	
Filed: 10/27/2000)	Examiner: Lindsay M. Maguire

Title: Methods and Apparatus for Online Auctions and Market-Places Utilizing Program Terms

Via EFS-WEB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INTERVIEW SUMMARY

Sir,

A non-final Office Action was mailed in above-captioned application on January 21, 2009 (the "Office Action"). On May 19, 2009, an examiner interview was held between examiner Lindsay M. Maguire, the inventor Jeffery Marks, and the undersigned. Thereafter, a response to the Office Action was filed on May 20, 2009 (the "Response"). The undersigned was notified via the e-Office Action program of an examiner's Interview Summary dated May 27, 2009. In said Interview Summary applicant was give one month from the date of the mailing of the Interview Summary to provide applicant's summary of the substance of the interview. This Interview Summary is being timely submitted prior to the expiration of the one month provided for this response.

Interview Summary

On May 13, 2009, the undersigned provided to the examiner by facsimile a draft response to the Office Action, which included a number of claim amendments. This draft was provided for the examiner's consideration in anticipation of the interview. The undersigned began the interview with a brief summary of the invention in terms of the limitations of the claims as proposed to be amended in the draft response. Specifically, the undersigned described the invention as claimed as:

- a) a server which acts as a hub in a transaction between a number of potential customers and a number of merchants;
- b) the server facilitating each customer's selection of a term most important to them, referred to as the Preferred Program Term;
- c) customers are grouped together by Preferred Program Term;
- d) by seeing what is preferred to the customers, merchants can adjust other terms to offer what customers want;
- e) multiple merchants make offers;
- f) server analyzes offers and selects a Preferred Offer;
- g) preferred offer made to customers via server; and
- h) server collects acceptances and notifies merchant.

The examiner asserted that the claim as presented was not an auction, as it did not contain limitations commensurate with elements of an auction. Applicant asserted that the present invention operates within the context of an auction, and indicated a willingness to further amend the claims to add auction language. The examiner indicated that such auction language, by itself, would not likely move the claims closer to allowability, as auction limitations are otherwise known.

The examiner indicated that applicant offered no claim amendments, other than those addressing issues of patentability (e.g., raised by *In re Bilski*), and that prior grounds for rejection of the claims would therefore be maintained. The undersigned pointed out that the

references do not disclose all elements from the claims, both in the condition as they stood at the time of the interview and following entry of the proposed response. Grouping customers according to a preferred program term was cited as an example. The server comparing offers prior to providing to customers was discussed as another example. Limitations from other claims, such as Term Ratio, were suggested as still further examples.

The examiner indicated that she continued to rely on the characterization of the references from the Office Action in support of the rejections of the claims. Accordingly, no agreement was reached as to patentability of the claims. The interview concluded with an invitation by the examiner that if applicant determines that further claim amendments would be acceptable, she would be willing to discuss those further claims amendments.

Conclusion

Applicant appreciates the examiner's time and consideration provided in the interview. Applicant believes that the claims as amended in the Response are statutory and patentably distinct from the cited references. Therefore, no further claim amendments are offered at this time.

If the Examiner believes that an additional telephone conference would further clarify any matters related to its prosecution, she is encouraged to telephone the undersigned at her convenience.

Respectfully submitted,

/Jonathan A. Small/

Jonathan A. Small
Attorney for Applicant
Registration No. 32,631
Telephone: 650-941-4470

309 Second St., Suite 8
Los Altos, CA 94022
Date: **May 28, 2009**